

5/023/063



United States Department of the Interior
BUREAU OF LAND MANAGEMENT
FILLMORE FIELD OFFICE
35 East 500 North
Fillmore, Utah 84631



In Reply Refer to:
3800
(U-010)
UTU-078266

May 7, 2004

CERTIFIED MAIL #7002 3150 004 1699 4667
RETURN RECEIPT REQUESTED

DECISION

JEAN SMITH
65 S 500 W
DELTA UT 84624

:
:
:

NOTICE UTU-078266

Notice Expired-Reclamation Satisfactorily Completed

Surface Management Regulations, 43 CFR 3809.333, require that an operator wishing to extend his/her notice which was on file as of January 20, 2001, notify the BLM in writing on or before the expiration date, January 20, 2003, and meet the financial guarantee requirements of 43 CFR 3809.503. Although you did request an extension of UTU-078266, you did not meet the financial guarantee requirements. Therefore, this notice expired on April 26, 2004. If you wish to resume work at the site, you must file a new notice in accordance with the 43 CFR 3809 regulations.

An inspection of the site subject to your notice on April 28, 2004 revealed that no surface disturbance took place under this notice. There is no reclamation obligation at this site.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.800, you may request that the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the State Director does not make a decision on your request for review of this decision within 21 days of BLM's receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You may contact the Utah BLM State Office to determine when BLM receives the request for State Director Review. You have 30 days from the end of the 21day period in which to file your notice of appeal with the IBLA (see procedures below).

RECEIVED

MAY 11 2004

DIV. OF OIL, GAS & MINING

If you wish to bypass a State Director review, this decision may be appealed directly to the IBLA in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office at 35 East 500 North, Fillmore, UT, 84631 within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the IBLA and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- 1 The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellants success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.



Enclosure:

Form 1842-1

cc: Tom Munson, UDOGM (S/023/063)

5/027/068
* 5/023/063

Jim Kelsey
Jean Smith
65 South 500 West
Delta, Utah 84624

August 25, 2002

Tom Munson
Division of Oil, Gas and Mining
1594 West North Temple, Suite 1210
P. O. Box 145801
Salt Lake City, Utah 84114

RE: Ruby Red Mine

Dear Tom:

Thank you for taking the time to inspect the Ruby Red Mine with us. Thank you also for discussing our Plan of Operations, preparing and sending a map, and letting us know what options are available to resolve the issues we are having at the mine site.

Please consider this letter a formal request to return the \$150.00 permit fee for the Cotton Blossom Claim #4, Project ID # S230063. If we understood you correctly, the money was sent in error, in fact, it has been sent in error for the past two to three years.

The "Plan of Operations" will be presented to the BLM Fillmore Office on Monday, August 26, 2002. If we need to do anything with your office, please advise. We will post a Certificate of Deposit with the BLM for the reclamation work upon their approval of the Plan of Operations. I have enclosed a copy of the Plan of Operations as well as the letter to the Fillmore BLM Field Office for your information.

Once again, thank you for a most enjoyable and educational trip to the claims.

Sincerely,


Jean Smith and Jim Kelsey

Enclosures: 3

RECEIVED

AUG 28 2002

DIVISION OF
OIL, GAS AND MINING